

FILED
JUN 30 2010
By PATRICK E. DUFFY, CLERK
DEPUTY CLERK, MISSOULA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

JEREMY RASKIEWICZ,)	CV 10-63-M-DWM-JCL
)	
Petitioner,)	
)	
vs.)	ORDER
)	
UNITED STATES,)	
)	
Respondent.)	
_____)	

This matter was commenced by the filing of a “Petition and Brief” on June 2, 2010. Petitioner also filed two documents titled “Brief and Petition,” and a letter to the Clerk of Court. Magistrate Judge Jeremiah C. Lynch entered his Findings and Recommendations on June 3, 2010. Judge Lynch found that Raskiewicz did not file a motion to proceed in forma pauperis or pay the filing fee. Raskiewicz also failed to name a correct Respondent. Judge Lynch also found that the instant petition is an unauthorized second or successive petition and that this Court lacks jurisdiction to consider it. 28 U.S.C. § 2244(b); Burton v. Stewart, 549 U.S. 147, 149 (2007) (per curiam).

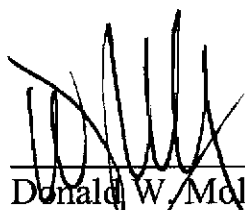
Petitioner Raskiewicz did not timely object and so has waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court reviews the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000). I can find no clear error with Judge Lynch’s recommendation (dkt #2) and therefore adopt it in full.

IT IS HEREBY ORDERED that the Petition (dkt #1) is DISMISSED for lack of jurisdiction as an unauthorized second or successive petition.

IT IS FURTHER ORDERED that the Clerk of Court is directed to enter by separate document a judgment in favor of Respondent and against Petitioner.

A certificate of appealability is DENIED. The Clerk of Court is directed to process the appeal if Raskiewicz files a notice of appeal.

Dated this 30 day of June, 2010.



Donald W. Molloy, District Judge
United States District Court